

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ARDELL KENNEDY,

Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA, *et al.*,

Respondents.

CIVIL ACTION
NO. 17-0980

ORDER

AND NOW, this 7th day of August, 2017, upon consideration of the Petition for Writ of *Habeas Corpus*, and the Report and Recommendation of Magistrate Judge Linda K. Caracappa, it is hereby **ORDERED** that:

1. The Report and Recommendation, (ECF No. 7), is **APPROVED** and **ADOPTED**;¹
2. The Petition for Writ of *Habeas Corpus*, (ECF No. 1), is **DENIED without prejudice**;
3. No certificate of appealability shall issue;
4. This case shall be **CLOSED** for statistical purposes.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

¹ When no objection is made to a report and recommendation, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b) advisory committee notes; *see also Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987) (district courts should afford some level of review to dispositive legal issues raised and some reasoned consideration to the report before adopting it). The Court has done so here and accepts Magistrate Judge Caracappa’s recommendation that Kennedy’s Petition should be denied without prejudice because he has not yet exhausted his claim in state court.